

SWAIN COUNTY/BRYSON CITY FIRE PREVENTION ORDINANCE

BE IT ORDAINED by the Board of Commissioners of Swain County (hereinafter "Board of Commissioners") and the Town of Bryson City Board of Aldermen (hereinafter "Board of Aldermen") as follows:

SECTION 1. An ordinance to provide Swain County and Bryson City with rules and regulations to improve public safety by promoting the control of fire hazards; regulating the installment, use and maintenance of equipment; regulating the use of structures, premises and open areas; providing for the abatement of fire hazards; establishing the responsibilities and procedures for code enforcement; and setting forth the standards for compliance and achievement of these objectives.

This Ordinance shall be known as the Swain County/Bryson City Fire Prevention Ordinance (hereinafter "Ordinance"). This code adopts by reference Volume V of the North Carolina Building Code, and its incorporated standards and codes as published in the Building Code. The same are hereby adopted and incorporated as fully as if set out verbatim herein. Not less than one copy of the adopted standards and codes shall be filed in the office of the Swain County Fire Marshal (hereinafter "Fire Marshal") and the provisions thereof shall be controlling within Swain County and the Town of Bryson City.

SECTION 2. A Fire Marshal Board (hereinafter "Board") is hereby created and shall establish policies for the Fire Marshal program. The Board shall consist of three members: one member being a Swain County Commissioner appointed by the Board of Commissioners; one member being a Town of Bryson City Board Member appointed by the Board of Aldermen; and the third member shall be appointed by the existing Board of Commissioners appointee and Board of Aldermen appointee as set forth herein. The term of the Commissioner Board member and the Alderman Board Member appointed to the Board shall be for one (1) year and which term shall run concurrently with the fiscal year for Swain County; the term of the member appointed by the Commissioner Board member and the Alderman Board member shall expire on the date the Commissioner Board member and the Alderman Board members' term expires.

No Board member shall serve more than two consecutive terms. Notwithstanding the previous sentence, the limitation on consecutive terms does not apply to the Commissioner Board member and the Aldermen Board member, if those members are members of the Board of Commissioners or Board of Aldermen at the time of reappointment.

Appointments to fill vacancies shall be made in the manner set out hereinabove and all such appointments shall be for the remainder of the former member's term of office and shall not constitute a term for the purpose of the preceding paragraph.

The Board shall have the following duties and responsibilities:

- (1) To select the Fire Marshal according to the merit system rules of the State Personnel Commission;

- (2) To advise county and municipal authorities in developing policies and plans to improve the fire safety conditions of the community;
- (3) To consult with the Fire Marshal about problems relating to his office, and to assist him in planning budgets for the Fire Marshal program;
- (4) To transmit or present the budgets of the Fire Marshal and the administration of the program to the Board of Commissioners and Board of Aldermen as set forth herein;
- (5) To have such other duties and responsibilities as the General Assembly, Board of Commissioners, and Board of Aldermen may assign to it.

Board members must be residents of Swain County and may be terminated by agreement of the Swain County Board of Commissioners and Town of Bryson City Board of Aldermen "for cause."

The Board shall meet at least once every quarter, or more often if a meeting is called by the chairman, or as set forth in the succeeding paragraph. Such Board shall elect a chairman from its members at its first quarterly meeting after the commencement of its fiscal year, and the chairman shall serve a term of one year or until a new chairman is elected by the Board.

A majority vote of the Board members will control on any action to be taken by said Board. Further, the Chairman or any two (2) Board members may call a special meeting for Board business with at least 24 hours written notice to the Board members.

SECTION 3. The Fire Marshal and any other employee(s) to be employed in the Fire Marshal program shall be Swain County employee(s) for purposes of compensation and benefits, but shall be under the control of the Board for all other purposes, including but not limited to: employment, termination of employment, disciplinary actions, and supervision.

SECTION 4. The Board shall have the right to set fees under authority of this Ordinance, including fees for permits, certificates, approvals and other functions performed under this ordinance. Upon adoption of a fee schedule, the fee shall accompany each application for permit, approval, certificate, or other fee related code provision. No fee shall be charged for any function unless specifically adopted by the Board. Fees collected under the authority of this section are to be deposited to the account of Swain County so that they may be expended as authorized by budgetary approvals. The Board shall report at least semi-annually to the Swain County Board of Commissioners and the Town of Bryson Board of Aldermen as to receipts received under this Ordinance. Fees collected under this section shall not be used to replace any other funds, either State or local, for the program for which the fees were collected.

SECTION 5. The Budget for the Fire Marshal shall be developed and approved by the Board and presented to the Board of Commissioners and the Board of Aldermen at least 90 days prior to the end of the current fiscal year and the Board of Commissioners and the Board of Aldermen shall approve or disapprove said budget presented by the Board at least 30 days prior to the end of the current fiscal year.

SECTION 6. The approved Budget for the Fire Marshal program shall be paid as follows:

70 % by County of Swain; and

30 % by the Town of Bryson City.

SECTION 7. Swain County and/or the Town of Bryson City may withdraw from participation in this Joint Ordinance at the end of any fiscal year, but must elect to do so 45 days or more prior to the beginning of the subsequent fiscal year. The withdrawing governmental entity must provide written notice of its intention to withdraw to the remaining governmental entity 45 days or more prior to the beginning of the subsequent fiscal year.

SECTION 8. The Fire Marshal, or designee, shall be responsible for the enforcement of this Ordinance and all laws and ordinances covering the following:

- (1) The prevention of fires;
- (2) The storage, sale and use of combustible, flammable or explosive materials;
- (3) The installation and maintenance of automatic and other fire alarm systems, and fire extinguishing equipment;
- (4) The maintenance and regulation of fire escapes;
- (5) The means and adequacy of exit in case of fire from factories, schools, hotels, lodging houses, asylums, hospitals, churches, halls, theaters, amphitheaters;
- (6) The investigation of the cause, origin, and circumstances of fires;
- (7) The maintenance of fire cause and loss records; and
- (8) The coordination of resources for all Fire Departments in Bryson City and Swain County.

SECTION 9. The Fire Marshal, or designee, shall prepare instructions and forms for the reports required by this Ordinance.

SECTION 10. The Fire Marshal, or designee, which designee shall be the Incident Commander on structural fires, shall investigate the cause, origin, and circumstances of every fire occurring within the jurisdiction of this ordinance by which property has been destroyed or damaged, and so far as possible, shall determine whether the fire is the result of carelessness or design. Such investigations shall begin immediately upon the occurrence of such fire. The Fire Marshal, or designee, is empowered by this Ordinance to take possession of any evidence relevant to the fire. Every fire shall be reported in writing to the Fire Marshal's office within thirty (30) days from the day of the occurrence or activity by the Fire Department primarily responsible for fire protection in the area where such fire has occurred. Such report shall be in the form prescribed by the Fire Marshal. Nothing in the section shall prevent the Fire Chief or designee from investigating any fire occurring within his or her jurisdiction.

SECTION 11. The Fire Marshal, or designee, shall inspect all premises on a periodic basis for compliance with this Ordinance and other fire prevention regulations as follows:

Semi-annual	Public Schools
Annual	Non-public Schools, Day Cares, Foster Homes, Family Care Homes, Hazardous, Institutional
Every Two Years	Industrial, Educational, Business, Mercantile and storage
Every Three Years	Churches and Synagogues

SECTION 12. Whenever any Fire Marshal or designee shall find in any building, or upon any premises or other places, combustible or explosive matter or dangerous accumulations of waste paper, boxes, shavings, or any highly flammable materials, and which is so situated as to endanger property; or shall find obstructions to or on fire escapes, stairs, passageways, doors, windows, likely to interfere with operations of a fire department or egress of occupants; of any violation listed in the Fire Code of the North Carolina Building Code, the inspector shall order the remediation of same.

Any owner or occupant failing to comply with such order within the time period set forth therein shall be subject to a penalty of \$100.00 for each violation that endangers "Life Safety" and a \$25.00 for each other violation. A violation endangers "Life Safety" if it is of such a nature as to endanger the life or limb of any person. Any violation that is not corrected within seven (7) days of the imposition of a penalty as provided herein, shall be deemed a continuing violation and the owner or occupant shall thereafter be subject to the specified penalty for each day the violation continues.

Any owner or occupant may appeal said order to the North Carolina Building Code council through the procedure provided for by the North Carolina Building Code.

The service of any such order may be made upon the occupant of the premises to whom it is directed, either by delivering a copy to such occupant personally, or by leaving it with any person in charge of the premises of suitable age and discretion, or if no such person is found upon the premises, by affixing a copy thereof in a conspicuous place or on the door to the entrance of said premises. Where the order cannot be served either by delivering to or leaving with the person a copy of the order, or if the owner is absent from the jurisdiction of the officer issuing the order, the order may be served by certified mail, return receipt requested, to the owner's last known address.

SECTION 13. The Fire Marshal shall maintain a record of all fires and facts concerning the same, including injuries, deaths, rescue of persons and statistics as to the extent of such fires and the damage caused thereby, and whether such losses were covered by insurance, and if so, in what amount. Such records shall be made daily from the reports made by the technical inspectors under the provisions of this Ordinance. All such records shall be public.

SECTION 14. The Fire Marshal shall submit a quarterly report of activities to the Board, which shall contain all proceedings under this Ordinance and any recommendations for amendments which the Fire Marshal deems appropriate. The Board shall submit semi-annual reports of the Fire Marshal and Board's activities to the Swain County Board of Commissioners and Town of Bryson City Board of Aldermen.

SECTION 15. This Ordinance shall apply equally to both public and private property, and all structures and their occupancies, except as otherwise specified; and shall be liberally construed as an exercise of the police powers of Swain County and the Town of Bryson City.

SECTION 16. A violation of this Ordinance shall be a misdemeanor punishable by a fine of not more than \$50 or by imprisonment for not more than thirty (30) days or by both such fines and imprisonment. The imposition of a penalty for any violation shall not excuse the violation nor shall the violation be permitted to continue. Also such persons shall be required to correct or remedy such violations or defects within a reasonable time, and when not otherwise specified, the application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions. Proof of such unlawful act or failure shall be deemed prima facie evidence that such act is that of the owner or other person in control of the premises. Prosecution or lack thereof by either the owner occupant or person in charge shall not be deemed to relieve any of the others.

SECTION 17. Repeated false alarms due to alarm malfunctions, improper care of fire protection equipment or testing of systems may result in a fine not to exceed \$100 per alarm under authority of this Ordinance.

SECTION 18. The Fire Marshal may require warning signs wherever hazardous materials are stored, processed, or handled. Such warning signs shall be conspicuously lettered in accordance with National Fire Prevention Association 704, Identification of the Fire Hazards of Materials; however, nothing in this section shall be held in conflict with Article 18 of Chapter 95 of the North Carolina General Statutes.

SECTION 19. All former ordinances or parts thereof conflicting or inconsistent with the provisions of this Ordinance are hereby repealed.

SECTION 20. Where a conflict exists between this Ordinance and the requirements of the State Building Code, the requirements of the State Building code shall prevail.

SECTION 21. This Ordinance shall take effect upon its adoption.

SECTION 22. Should any part or section of this Ordinance be determined invalid or unenforceable by a Court of proper jurisdiction, then and in that event, that part or section of this Ordinance shall be severable from the Ordinance and the remaining parts or sections shall remain enforceable.

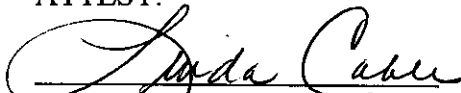
This Ordinance shall become effective the 1st day of July 2000.

SWAIN COUNTY, NORTH CAROLINA

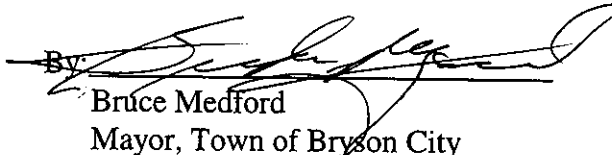
(SEAL)

By: 
Jim Douthit
Chairman, Board of Commissioners

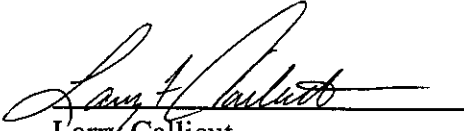
ATTEST:


Linda Cable
County Administrator & Clerk

(SEAL)

By: 
Bruce Medford
Mayor, Town of Bryson City

ATTEST:


Larry Callicut
Town Manager